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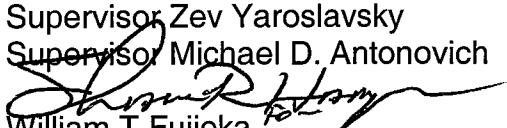
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To: Supervisor Don Knabe, Chairman  
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Supervisor Michael D. Antonovich  
From:   
William T Fujioka  
Chief Executive Officer

### SACRAMENTO UPDATE

This memorandum provides an update of the major issues addressed by the Legislature in the first year of the 2009-10 Legislative Session, and the status of County-advocacy legislation and bills of County interest.

### END OF SESSION

The Legislature adjourned the regular session on September 12, 2009. The primary focus during the first year of the Legislative Session was on the ongoing fiscal crisis, which required the Governor and the Legislature to resolve an estimated \$60 billion budget deficit when they enacted the FY 2009-10 State Budget Act in February and further revised it at the end of July.

In the final days of the session the Assembly and the Senate debated several major issues including a proposal for an NFL stadium in the City of Industry, a hospital provider fee, corrections reform, water, energy, and other critical issues. However, the Legislature failed to act on many of these measures in large part because of last minute end of session partisan disagreements. As a result, a number of unresolved issues will have to wait until the Legislature returns for the second year of the session on January 4, 2010, or the Legislature may attempt to take up some of these issues as part of existing or proposed extraordinary sessions. The special sessions to potentially address some of these issues include:

- Education Reform. On August 20, 2009, the Governor called the Legislature into a Special Session to make the necessary law changes to ensure that California

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is eligible to compete for \$4.35 billion in Race to the Top dollars which are available through the American Recovery and Reinvestment Act of 2009 (H.R. 1);

- Tax Reform. The Governor has indicated that he intends to immediately call the Legislature into a Special Session after the Commission on the 21<sup>st</sup> Century Economy submits its recommendations on September 20, 2009 to restructure California's tax system;
- Water Reform. The Governor is considering a request by Democratic leaders to call a Special Session which would require the Legislature to reconvene to pass a comprehensive reform plan to address the State's water supply; and
- Pension Reform. While the Governor has not yet called for a Special Session, he has indicated on various occasions the need to reform existing retirement systems which he considers a burden on the State Budget.

The Governor has until October 11, 2009 to sign or veto all legislation passed by the Legislature. Some of the key issues taken up by the Legislature before its adjournment on September 12, 2009 included:

### **Major Issues**

#### **Highway User Tax Account Repayment and Proposition 1A Securitization**

The Legislature failed to pass SB 65, which included technical clean-up language to accelerate the repayment of deferred gasoline tax revenues to counties and cities, and SB 67, which would have provided the necessary non-controversial clean-up legislation to ensure that counties, cities, and special districts can securitize the State's borrowing of local property taxes pursuant to the suspension of Proposition 1A of 2004. The two measures failed to pass because they lacked the necessary votes to meet the two-thirds vote requirement.

#### **City of Industry Proposed NFL Stadium**

**County-opposed ABX3 81 (Hall)**, which would exempt the proposed new football stadium and entertainment complex in the City of Industry from California Environmental Quality Act requirements, passed the Assembly Floor by a vote of 54 to 18 on September 11, 2009; however, the measure was held at the Senate Desk.

According to various news reports, Senate President pro Tempore Darrell Steinberg told Senate Members that he wants the parties involved in the litigation tying up the project

to try to resolve their differences before the Senate takes up the bill. Steinberg called the stadium plan, which supporters say would create up to 18,000 jobs, an important project but indicated in a letter that "...It has been my experience that negotiation - not abrogation - is the preferred method to concluding challenges and expediting the project's delivery." Senator Steinberg also indicated that the Senate would take the bill up during Special Session if an agreement cannot be reached before the end of the month.

### **Hospital Provider Fee Legislation**

The Legislature passed **County-supported AB 1383 (Jones)**, which would impose a hospital provider fee, except on designated public hospitals, to provide increased Medi-Cal reimbursements to public and private hospitals after amendments were made. On September 11, 2009, the bill was amended at the request of the Governor to allow the State Department of Health Care Services to adjust the fee structure model to meet criteria established by the Centers for Medicare and Medicaid Services. The bill was further amended on September 12, 2009 to remove the urgency clause and funding appropriations after Senate Republicans indicated that they would withhold votes on any measures requiring a two-thirds vote.

At this time it is unknown if the Governor will sign the bill, and the Howard Jarvis Taxpayers Association has indicated that they will file a lawsuit if the Governor signs AB 1383 because the measure violates provisions of Proposition 13 which requires a two-thirds vote of the Legislature to impose or increase taxes. In addition, follow-up legislation would be necessary to restore the appropriations which were removed from the bill to allow a simple majority vote by the Senate.

### **Corrections Reform**

The Senate passed SBX3 18 (Ducheny), the Assembly version of the corrections reform measure by a vote of 21 to 15 on September 11, 2009. As reported in the September 1, 2009 Sacramento Update, this measure would: 1) provide incentives for inmates who participate in programs designed to reduce recidivism; 2) establish an instrument to assess risk of parolees to the community prior to release; 3) reduce parole supervision for offenders convicted on non-serious, non-violent, and non-sex crimes; 4) establish a program to provide rehabilitation and treatment services for certain parole violators to reduce recidivism; and 5) allow county probation departments to receive fiscal incentives for felony probationers who remain out of prison. SBX3 18 does not include the sentencing commission, the alternate custody proposal, or the conversion of "wobblers" to misdemeanors. Wobblers are crimes that can currently be considered either felonies or misdemeanors.

It is important to note that while the Senate passed the Assembly-approved corrections reform package in the last day of the session, the Assembly package falls short by an estimated \$230 million from the necessary reductions approved as part of the FY 2009-10 State Budget Act, which would result in the erosion of budget solutions enacted in July 2009 and would further increase the budget deficit. In addition, the approved package does not address the recent Federal Court order to reduce inmate population in order to improve the provision of medical care in prisons.

The U.S. Supreme Court has signaled that it will accept jurisdiction over the prison overcrowding case in which the three-judge Federal Court panel ordered the State to produce a detailed plan to reduce the prison population by 46,000 over the next two years. On September 11, 2009, the Court denied a stay of order to produce that plan. The Administration must now present a plan by September 18, 2009 which will include the elements passed by the Legislature and presumably other proposals that do not require statutory change. However, it will be difficult to reach the population reduction ordered by the court without some of the changes the Legislature failed to approve.

### **Water Legislation**

The Legislature failed to act on a comprehensive water management plan to address the State water supply and reliability issues; however, Democratic leaders have asked the Governor to convene a Special Session to take up the five bills contained in the water package: AB 39 (Huffman), County-support in concept AB 49 (Feuer), SB 12 (Simitian), SB 229 (Pavley), and SB 458 (Steinberg and Simitian).

On September 9, 2009, **County-support in concept AB 49**, which stated intent to enact legislation to establish a 20-percent water efficiency requirement by 2020 for agricultural and urban water users, was substantially amended. As amended, the bill would now require the State to achieve a 20-percent reduction in urban water use by December 31, 2012. The bill also would require agricultural water suppliers to prepare and adopt agricultural water management plans by December 31, 2012 and to update those plans every five years. This bill is double-joined to the other four water bills. The Department of Public Works indicates that the latest version of AB 49 is consistent with existing policy to support legislation to encourage water conservation and increase the efficiency of water use and promote local water reliability and conservation, and it recommends that the County's position of support in concept be changed to support, and we concur. **Therefore, the Sacramento advocates will now support AB 49.**

### **Status of County-Advocacy Legislation**

**County-supported AB 46 (Blakeslee)**, as amended on September 4, 2009, which would: 1) extend the State Energy Conservation Assistance Program that provides

grants and loans to local governments and public institutions to maximize energy use savings until January 1, 2012; 2) extend the existing Local Jurisdiction Energy Assistance Program that provides loans to local jurisdictions for energy projects, including to purchase, maintain, and evaluate energy efficient equipment for existing or new facilities until January 1, 2016; and 3) make other related changes was placed on the Senate inactive file on September 11, 2009, and is now a two-year bill.

**County-opposed unless amended AB 64 (Krekorian)**, which would among other things, recast the renewables portfolio standard program to require that a retail seller and a local publicly owned electric utility obtain at least 23 percent of its electricity from renewable energy resources by December 31, 2014; increasing to 27 percent by December 31, 2017; and 33 percent by December 31, 2020, and would place restrictions on the ability of solid waste conversion facilities to qualify as a renewable energy resource, was substantially amended on September 11, 2009.

The amendments delete the prior provisions of the bill, add Assembly Speaker Bass and Assembly Member Fuentes as joint authors, and make various programmatic changes necessary to implement SB 14 (Simitian), to mandate that all electricity providers increase purchases of renewable energy to require at least 20 percent of electricity delivered to retail customers is obtained from a renewable energy resource by 2013; 26 percent by 2016; and 33 percent by 2020. The amendments also join AB 64 to SB 14 requiring enactment of both measures for either one to take effect.

**Because AB 64 no longer contains language that discourages the use and development of conversion technologies, the Sacramento advocates will drop opposition to AB 64 and take no position on this measure.** AB 64 passed the Assembly Floor by a vote of 50 to 28 on September 11, 2009, and now proceeds to the Governor.

**County-supported AB 91 (Feuer)**, as amended on August 17, 2009, which would establish a pilot program in four counties, including Los Angeles, to require the installation of an Ignition Interlock Device on vehicles driven by persons convicted of driving under the influence, passed the Assembly Floor by a vote of 78 to 0 on September 9, 2009, and now proceeds to the Governor.

**County-supported AB 215 (Feuer)**, as amended September 2, 2009, which would require a skilled-nursing facility to post the overall facility rating information determined by the Federal Centers of Medicare and Medicaid Services, including the number of stars assigned to a facility, passed the Assembly Floor by a vote of 68 to 9 on September 9, 2009, and now proceeds to the Governor.

**County-supported AB 221 (Portantino)**, as amended on August 17, 2009, which would exempt an HIV counselor, who meets specified criteria, from the requirement that he or she holds a valid phlebotomist technician certification in order to perform an HIV test, passed the Assembly Floor by a vote of 61 to 0 on September 11, 2009, and now proceeds to the Governor.

**County-supported AB 286 (Salas)**, as amended on June 23, 2009, which would extend the authority for counties to impose an additional \$1.00 vehicle registration fee to be used for anti-vehicle theft programs until January 1, 2018, passed the Assembly Floor by a vote of 49 to 28 on September 10, 2009, and now proceeds to the Governor.

**County-supported AB 311 (Ma)**, as amended on September 2, 2009, which would delete the December 31, 2010 sunset date for the current methodology for the valuation of certified aircraft adopted through AB 964 (Chapter 699 Statutes of 2005), passed the Assembly Floor by a vote of 57 to 15 on September 9, 2009, and now proceeds to the Governor.

**County-supported AB 383 (Lieu)**, which as introduced on February 23, 2009, would extend the statute of limitations for the testing of biological evidence in sex crime cases from two years to five years from the date of the offense, remains in the Senate Public Safety Committee, and is now a two-year bill.

**County-supported AB 682 (Lowenthal)**, was amended on September 3, 2009, to delete provisions which would have required the California Department of Social Services to dedicate two staff positions to evaluate State and county implementation of In-Home Supportive Services (IHSS) quality assurance and fraud mitigation requirements. These provisions were included in ABX4 19, the IHSS Reforms Budget Trailer Bill signed by the Governor on July 28, 2009. ABX4 19 also requires IHSS providers to undergo criminal background checks. AB 682, as amended, would require IHSS providers to pay for the criminal background checks required by ABX4 19 unless the Public Authority, the Personal Assistance Services Council in Los Angeles County agrees to cover these costs. AB 682 was held in the Senate Appropriations Committee on September 3, 2009, and is now a two-year bill.

**County-opposed AB 1048 (Torrico)**, as amended on July 16, 2009, which would extend the timeframe to safely surrender a newborn infant from 72 hours to up to 30 days, was placed on the Senate inactive file on September 11, 2009, and is now a two-year bill.

**County-supported AB 1369 (Davis)**, as amended on July 14, 2009, which would expand the existing involuntary home detention program for jail inmates by removing

the requirement that the program applies only to misdemeanor inmates, was placed on the Assembly Inactive File on September 10, 2009, and is now a two-year bill.

**County-opposed unless amended ABX3 37 (Evans)**, was amended on September 10, 2009, to delete County-opposed provisions related to court operations and costs, including the provision requiring the superior courts to renegotiate memoranda of understanding with sheriffs or counties regarding compensation provided for court security. These provisions were amended into ABX4 13, the Public Safety/Courts Budget Trailer Bill signed by the Governor on July 28, 2009. Because this bill no longer contains the County-opposed provisions, the **Sacramento advocates will drop opposition to ABX3 37 and take no position on this measure.**

**County-supported SB 113 (Senate Local Government Committee)**, as amended on June 25, 2009, is an omnibus bill that contains three provisions supported by the County to: 1) authorize a county board of supervisors to form a school facilities improvement district in an individual school district; 2) revise the Public Contract Code to align the requirements for County Waterworks Districts to contract for non-construction related work with the contracting requirements for county government to perform similar work; and 3) revise the Water Code to allow County Waterworks Districts to advance water reliability projects and water system facility construction. SB 113 passed the Senate Floor by a vote of 40 to 0 on September 9, 2009, and now proceeds to the Governor.

**County-supported SB 152 (Cox)**, which as amended on April 14, 2009, would require the State Department of Mental Health to send a reimbursement claim to the State Controller's Office within 90 days after the receipt of a reimbursement claim from any fee-for-service county contractor for mental health services provided to Medi-Cal beneficiaries, remains in the Assembly Health Committee, and is now a two-year bill.

**County-supported SB 450 (Lowenthal)**, which would authorize the South Coast Air Quality Management District (SCAQMD) to issue permits to essential public services and previously exempt businesses, notwithstanding the court decision in Natural Resources Defense Council, v. SCAQMD, was amended on September 12, 2009 to remove the urgency clause and state legislative intent to establish essential public service projects as a first priority when issuing permits. SB 450 passed the Assembly Natural Resources by a vote of 9 to 0 on September 9, 2009, and the Assembly Utilities and Commerce Committee by a vote of 14 to 0 on September 11, 2009. The bill was sent to the Assembly Floor; however, the Legislature adjourned before a vote was taken on this measure. Therefore, SB 450 is now a two-year bill.

**County-supported SB 600 (Padilla)**, as amended June 9, 2009, which would impose an additional tax on cigarettes of \$1.50 per pack and an equivalent tax on other tobacco

products to fund tobacco control programs, was held in the Senate Rules Committee on August 31, 2009. Therefore, this measure is dead.

**County supported SB 678 (Leno)**, as amended on September 12, 2009, which would create a voluntary program to provide State funding for local felony probationers in an attempt to reduce recidivism among this group and thereby improve public safety in the community, passed the Assembly Floor by a vote of 71 to 9 on September 11, 2009, and the Senate Floor by a vote of 38 to 0 on September 12, 2009, and now proceeds to the Governor.

**County-supported SB 797 (Pavley)**, as amended July 15, 2009, which would prohibit the commercial manufacture, sale, or distribution of any bottle or cup, or any liquid, food, or beverage in a can or jar, containing Bisphenol A at a level above 0.1 parts per billion, if the product is intended primarily for children three years of age or younger, was placed on the Assembly inactive file on September 11, 2009, and is now a two-year bill.

**County-supported SB 816 (Ducheny)**, as amended on August 31, 2009, which would: 1) expand the list of State and local agencies to which an assessor is required to disclose realty transfer-related information to include a county recorder when an investigation is being conducted to determine whether a documentary transfer tax is due; 2) authorize a county board of supervisors to order that the change in ownership penalty be abated if it can be shown the failure to file the change in ownership timely was due to reasonable cause and not due to willful neglect; and 3) require corporations and other entities to file a change-of-ownership statement within 45 days, passed the Assembly by a vote of 27 to 11 on September 10, 2009, and now proceeds to the Governor.

**County-supported SB 827 (Wright)**, which would authorize the South Coast Air Quality Management District (SCAQMD) to issue permits to essential public services and previously exempt businesses, notwithstanding the court decision in Natural Resources Defense Council, v. SCAQMD, passed the Assembly by a vote of 45 to 21 and the Senate by a vote of 27 to 9 on September 12, 2009, with amendments, and now proceeds to the Governor.

The amendments would: 1) remove the urgency clause; 2) allow the permitting and issuance of emission reduction credits for electric utility steam boiler replacements; 3) require the SCAQMD to also make use of any emission credits that have resulted from emission reductions and shutdowns from minor sources since 1990; 4) specify that the legislation is not intended to affect any pending litigation challenging the district's internal offset accounts in Federal court, or to give an advantage to a party in that litigation; and 5) explicitly gives the SCAQMD the authority to carry out the provisions of



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the bill. SB 827, like County-supported SB 450 (Lowenthal), does not allow emission reduction credits to be issued for new power plants.

### **Legislation of County Interest**

**AB 1318 (Perez)**, as amended on September 11, 2009, which would allow the South Coast Air Quality Management District (SCAQMD) to: 1) make emission reduction credits available for boilers for electric generating facilities; 2) make emission reduction credits available to power plants; 3) create a new U.S. EPA-approved tracking system for emission reduction credits; 4) refuse to issue permits until the mitigation fees are paid by the power plant; 5) require the SCAQMD to transfer emission reduction credits for certain pollutants from its internal emission credit accounts to eligible electrical generating facilities; and 6) establish standards for the issuance of permits to electrical generating facilities, passed the Assembly Floor by a vote of 65 to 4, and the Senate Floor by a vote of 23 to 6 on September 11, 2009, and now proceeds to the Governor.

**SB 388 (Calderon)**, as amended on September 12, 2009, which would require the SCAQMD to transfer, from the district's internal emission credit accounts to eligible electrical generating facilities, emission credits in the full amounts needed to issue permits for proposed power plants in the cities of Industry and Vernon, passed the Assembly Floor by a vote of 44 to 16 on September 12, 2009; however, the bill was not taken up in the Senate, and is now a two-year bill.

We will continue to keep you advised.

WTF:RA  
MR:MS:sb

c: All Department Heads  
Legislative Strategist  
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California Contract Cities Association  
Independent Cities Association  
League of California Cities  
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Buddy Program Participants